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## Standard Terms and Conditions of Sale

August 26, 2021

### Acceptance

Order acceptance shall be made upon written confirmation from the Seller. The sale of goods is expressly conditional on Buyer's acceptance of Seller's terms and conditions as stated herein and on the typed portion of the referenced quotation, unless otherwise specified in writing. Provided that Seller's terms and conditions have not been previously accepted by Buyer, Buyer's receipt of goods shipped under this Agreement is acceptance of these terms and conditions.

### Delivery

The delivery date is based upon the date of Acceptance as defined above. Delivery shall be either FOB-Origin for US deliveries, or EXW-VACCO in accordance with INCOTERMS 2020 for international deliveries. For shipments destined for outside the US, the Buyer shall provide a signed Power of Attorney or Routed Shipment Authorization from the Foreign Principle Party in Interest, Customer or End User, as applicable, at the time of order placement.

### Transfer of Title

Title shall transfer from the Seller to the Buyer upon delivery as defined in these terms and conditions.

### Payment

All payments under this Agreement must be in U.S. Dollars. Upon credit approval by the Seller, payment shall be Net 30 days from the date of the invoice.

Provided that, in Seller's opinion, there is a material adverse change in Buyer's financial condition and/or Buyer has not, within the agreed time, fully paid for goods previously shipped under this and/or another agreement (s) with Seller, Seller reserves the right to revoke Buyer's credit and/or suspend performance on this and/or other orders and future shipments.

Seller's right to payment upon tender of conforming goods shall be absolute and Buyer shall not set off against such payment any amounts Buyer might claim it is owed by Seller. Seller reserves the right, among other remedies, either to terminate this Agreement, or to suspend further delivery under it in the event Buyer fails to pay for any one shipment when same becomes due. Should Buyer's financial condition be or become unsatisfactory as determined by Seller, advance cash payments or security satisfactory to Seller may be required by Seller for future deliveries.

A service charge of 1.5% may be charged for each month and portion thereof that payments are received later than 30 days after the invoice date Buyer and Seller agree that the laws of the State of California govern this Agreement. However, if it is judicially determined that a different law governs this clause of this Agreement, the service charge shall be the maximum amount permitted under such law.

## Tax

All government charges upon the production, shipment and sale of goods and/or services covered by this Agreement, including, but not limited to, use, occupation, export and import taxes, shall be paid by Buyer or, in lieu thereof, Buyer shall furnish Seller with a tax exemption certificate acceptable to the authority imposing the tax on Seller.

## Changes

Buyer by written order and contingent upon the written consent of Seller may make changes in the delivery schedule or packing of goods. Buyer agrees to pay Seller for any increase in the costs and amounts due under this Agreement and agrees to adjust the delivery schedule as required by such changes. Seller shall be entitled to submit a claim for adjustment hereunder any time up until one (1) year after final delivery of goods.

## Warranty

Goods manufactured by Seller are warranted to the specifications herein and to be free from defects in workmanship and material under normal use and service for a period of twelve (12) months from the date of shipment by Seller. A Seller issued Return Material Authorization (RMA) is required prior to returning any suspect Goods. Goods or part(s) proven by Seller to be defective in workmanship and/or material shall be replaced or repaired (Seller's option), free of charge F.O.B. Origin provided that the goods or part(s) are returned to Seller's designated factory, transportation charges prepaid, within the twelve (12) month period of this warranty. This warranty shall be in effect for replacement of repaired goods or part(s) for the remaining portion of the twelve (12) month period of this warranty.

In consideration of the herein stated purchase price of the goods, Seller grants only the above stated express warranty. This warranty does not apply to consumable parts or goods, damage or defects caused by ordinary wear and tear, goods subject to misuse, misapplication, neglect (including without limitation inadequate maintenance), accident, improper installation, or goods which have been repaired or altered other than by Seller's representative. The foregoing warranty constitutes Seller's only warranty in connection with the goods delivered hereunder, and is in lieu of all other warranties, express or implied, written or oral. Buyer acknowledges that it has not relied upon any representation of Seller regarding the goods or their delivery other than those representations of Seller regarding the goods or their delivery other than those representations expressly stated in this Agreement. **SELLER EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS OF ANY GOODS FOR A PARTICULAR PURPOSE IN CONNECTION WITH THIS AGREEMENT.**

## Intellectual Property

- a. Background Intellectual Property shall mean all Intellectual Property specifically required in the performance of work under the Order other than Foreground Intellectual Property.

- b. Foreground Intellectual Property shall mean all Intellectual Property and tangible work product conceived, created, acquired, or first reduced to practice in connection with the Order.
- c. Each Party retains its existing rights in Background Intellectual Property.
- d. Buyer shall own all Foreground Intellectual Property developed solely by Buyer ("Buyer Foreground Intellectual Property"). Supplier shall own all Foreground Intellectual Property related to Supplier's products provided under the Order ("Supplier Foreground Intellectual Property").

### **Patents**

Seller shall defend any suits brought against the Buyer based on a claim that the goods manufactured by Seller constitute an infringement of a valid patent of the United States, and shall pay any damages and reasonable costs awarded therein against Buyer, provided that Buyer promptly notifies Seller in writing and gives authority, information and assistance to Seller for the defense of such suit. In the event that only the goods manufactured by Seller are held to be infringing in such suit and their use is enjoined, Seller shall, at Seller's expense, provide a commercially acceptable alternative, including, but not limited to, procuring for Buyer the right to continue using the goods, replacing them with a non-infringing product or modifying them so they become non-infringing. Buyer agrees that Seller shall not be liable and that Buyer shall fully indemnify Seller if infringement is based upon the use of the goods in connection with goods not manufactured by Seller or in a manner for which the goods were not designed by the Seller or if the goods were designed by the Buyer or were modified by or for the Buyer in a manner to cause them to become infringing.

### **Termination for Convenience**

Provided that Seller receives adequate written notice from Buyer, Buyer may terminate or suspend performance at Buyer's convenience subject to all reasonable charges, which charges shall be solely determined by Seller.

### **Confidentiality**

Refer to Non-Disclosure Agreement (NDA), otherwise, the following apply in the absence of a valid NDA.

Buyer agrees and warrants that it will not disclose or make available to any third party any drawings, data, information, or other details pertaining to this Agreement without first obtaining the written consent of Seller.

### **Limitation of Liability**

Seller shall not be liable for damages caused by delay in performance. The sole and exclusive remedy for breach of warranty shall be limited to repair or replacement under the standard warranty clause. In no case, regardless of the form of the cause of action, shall Seller's liability exceed the price to Buyer of the individual hardware manufactured by Seller giving rise to the

cause of action. **BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY EXTEND TO INCLUDE INCIDENTAL OR CONSEQUENTIAL DAMAGES CONSEQUENTIAL DAMAGES SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF REVENUE, COST OF CAPITAL AND DAMAGE OR LOSS OF OTHER PROPERTY OR EQUIPMENT.** In no event shall Seller be liable for property damage and/or third party claims covered by umbrella insurance and/or indemnity coverage provided to Buyer, its assigns, and each successor in interest to the goods provided hereunder.

### **Force Majeure**

Seller shall not be liable for failure to perform its obligations due to conditions beyond Seller's direct control, including, but not limited to, act of government, act of God, meteorological phenomenon, power failures or blackouts, insurrection, embargo, fire, flood, earthquake, electromagnetic interference, explosion, riot, wars or armed conflicts, rebellion, civil disobedience, sabotage, epidemic, pandemic, emergencies, labor strikes or natural disasters.

### **Regulatory Compliance – Export Controls**

Buyer understands and agrees that the information disclosed, made available or provided herein is private, confidential, and proprietary, and may also be controlled technical data or technology under the Export Administration Regulations (“EAR”) or International Traffic in Arms Regulations (“ITAR”), Office of Foreign Assets Control (“OFAC”), or subject to other laws or regulations. Buyer agrees and covenants that it will not release, show, make available, disclose or deliver in any form or fashion all or any part of this information to any person who is not a U.S. Citizen, a lawful permanent resident of the United States (i.e., valid “Green Card” holder – a Visa is irrelevant for this purpose), or who has received Political Asylum in the United States without first having determined whether it is lawful to do so under U.S. laws including the EAR, ITAR, and OFAC. Further, Buyer will not release, show, make available, disclose or deliver in any form or fashion all or any part of this information to any non-U.S. Person without having first obtained the necessary license or approval that may be required from the U.S. Department of Commerce, Department of State, Department of Treasury, or other agency, department, or office. Buyer agrees that if a license or other approval is necessary it will promptly advise PTI in writing of its determination and confirm that it has not released any controlled technical data or technology and that it is seeking a license or other approval.

### **General Provisions**

- a. Neither party shall have the right to assign its rights or obligations under this Agreement except with the written consent of the other party, provided, however, that a successor in interest by merger, by operation of law, assignment, purchase, or otherwise of the entire business of either party, shall acquire all interest of such party hereunder. Any prohibited assignment shall be null and void.
- b. This Agreement constitutes the full understanding of the parties of the terms and conditions of sales hereunder. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or

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supplement the terms or conditions of this Agreement shall be binding unless hereafter made in writing and signed by the parties.

- c. No action, regardless of form arising out of transactions under this Agreement, may be brought by either party more than two (2) years after the cause of action has accrued.
- d. Only a duly authorized representative of Seller has authority to modify these terms and conditions in a written instrument signed by a duly authorized representative of Seller.
- e. This Agreement is formed and shall be construed under the laws of the State of California.
- f. Where federal jurisdiction exists over any action, suit, or proceeding arising out of or in any way connected with this Agreement or the arbitration decision, the parties designate the United States District Court for the Central District of California, Los Angeles Division, for the exclusive resolution of the dispute and submit to the jurisdiction of that court. Where federal jurisdiction does not exist over that action, suit, or proceeding, the parties designate the Los Angeles County Superior Court, California, for the exclusive resolution of the dispute and submit to the jurisdiction of that court. Nothing in this Section is intended to limit in any way a party's right to appeal all or any part of a decision or ruling or judgment of any court.
- g. All typographical and clerical errors in quotations and specifications may be corrected at any time by Seller.
- h. If any provision of this Agreement is determined to be ineffective or invalid, all other provisions of this Agreement shall remain effective and valid.

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